

**TRANSMITTAL LETTER TO THE UNITED STATES
DESIGNATED/ELECTED OFFICE (DO/EO/US)
CONCERNING A SUBMISSION UNDER 35 U.S.C. 371**

ATTORNEY'S DOCKET NO.

310134.402USPC

U.S. APPLICATION NO. (If known, see 37 CFR 1.5)

10/520,986

INTERNATIONAL APPLICATION NO.

PCT/GB2003/002962

INTERNATIONAL FILING DATE

09 July 2003

PRIORITY DATE CLAIMED

10 July 2002

TITLE OF INVENTION

MOLECULAR DETECTOR ARRANGEMENT

APPLICANT(S) FOR DO/EO/US

Richard GILBERT; Xiao-Feng ZHOU; and Brian Philip ALLEN

Applicant herewith submits to the United States Designated/Elected Office (DO/EO/US) the following items and other information:

1. ☐ This is a **FIRST** submission of items concerning a submission under 35 U.S.C. 371.
2. ☒ This is a **SECOND** or **SUBSEQUENT** submission of items concerning a submission under 35 U.S.C. 371.
3. ☐ This is an express request to begin national examination procedures (35 U.S.C. 371(f)). The submission must include items (5), (6), (9) and (21) indicated below.
4. ☐ The US has been elected (Article 31).
5. ☐ A copy of the International Application as filed (35 U.S.C. 371(c)(2)).
 - a. ☐ is attached hereto (required only if not communicated by the International Bureau).
 - b. ☐ has been communicated by the International Bureau.
 - c. ☐ is not required, as the application was filed in the United States Receiving Office (RO/US).
6. ☐ An English language translation of the International Application as filed (35 U.S.C. 371(c)(2)).
 - a. ☐ is attached hereto.
 - b. ☐ has been previously submitted under 35 U.S.C. 154(d)(4).
7. ☐ Amendments to the claims of the International Application under PCT Article 19 (35 U.S.C. 371(c)(3))
 - a. ☐ are attached hereto (required only if not communicated by the International Bureau).
 - b. ☐ have been communicated by the International Bureau.
 - c. ☐ have not been made; however, the time limit for making such amendments has NOT expired.
 - d. ☐ have not been made and will not be made.
8. ☐ An English language translation of the amendments to the claims under PCT Article 19 (35 U.S.C. 371(c)(3)).
9. ☐ An oath or declaration of the inventor(s) (35 U.S.C. 371(c)(4)).
10. ☐ An English language translation of the annexes to the International Preliminary Examination Report under PCT Article 36 (35 U.S.C. 371(c)(5)).

Items 11 to 20 below concern document(s) or information included:

11. ☐ An Information Disclosure Statement under 37 CFR 1.97 and 1.98.
12. ☐ An assignment document for recording. A separate cover sheet in compliance with 37 CFR 3.28 and 331 is included.
13. ☐ A preliminary amendment.
14. ☐ An Application Data Sheet under 37 CFR 1.76
15. ☐ A substitute specification.
16. ☐ A power of attorney and/or change of address letter.
17. ☐ A computer-readable form of the sequence listing in accordance with PCT Rule 13ter.2 and 37 CFR 1.821 – 1.825.
18. ☐ A second copy of the published International Application under 35 U.S.C. 154(d)(4).
19. ☐ A second copy of the English language translation of the international application under 35 U.S.C. 154(d)(4).
20. ☒ Other items or information: Response to Decision of September 8, 2006; Copy of Decision of September 8, 2006

RECEIVED

22 SEP 2006

Legal Staff
International Division

U.S. APPLICATION NO. (If known, see 37 CFR 1.5) 10/520,986		INTERNATIONAL APPLICATION NO. PCT/GB2003/002962		ATTORNEY'S DOCKET NUMBER 310134.402USPC	
The following fees are submitted					
21. <input type="checkbox"/> Basic national fee (37 CFR 1.492(a)).....				\$300.00	\$.00
22. <input type="checkbox"/> Examination fee (37 CFR 1.492(c)) If the written opinion prepared by ISA/US or the international preliminary examination report prepared by IPEA/US indicates all claims satisfy provisions of PCT Article 33(1)-(4)				\$ 0.00	\$.00
All other situations				\$200.00	
23. <input type="checkbox"/> Search fee (37 CFR 1.492(b)) If the written opinion of the ISA/US or the international preliminary examination report prepared by the IPEA/US indicates all claims satisfy provisions of PCT Article 33(1)-(4).....				\$ 0.00	
Search fee (37 CFR 1.445(a)(2)) has been paid on the international application to the USPTO as an International Searching Authority.....				\$100.00	
International Search Report prepared by an ISA other than the US and provided to the Office or previously communicated to the US by the IB.....				\$400.00	
All other situations				\$500.00	\$.00
TOTAL OF 21, 22 AND 23 =					\$.00
<input type="checkbox"/> Additional fee for specification and drawings filed in paper over 100 sheets (excluding sequence listing in compliance with 37 CFR 1.821(c) or (e) or computer program listing in an electronic medium) (37 CFR 1.492(j)). The fee is \$250 for each additional 50 sheets of paper or fraction thereof.					
Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof (round up to a whole number)		RATE	
- 100 =	/50 =			X \$250.00	\$.00
Surcharge of \$130.00 for furnishing any of the search fee, examination fee, or the oath or declaration after the date of commencement of the national stage (37 CFR 1.492(h)).					\$.00
Claims	Number Filed	Number Extra	Rate		
Total Claims	- 20 =		x \$ 50.00	\$.00	
Independent Claims	- 3 =		x \$ 200.00	\$.00	
MULTIPLE DEPENDENT CLAIM(S) (if applicable)			+ \$360.00	\$.00	
TOTAL OF ABOVE CALCULATIONS =				\$.00	
<input type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27. Fees above are reduced by 1/2.				\$.00	
SUBTOTAL =				\$.00	
Processing fee of \$130.00 for furnishing the English translation later than 30 months from the earliest claimed priority date (37 CFR 1.492(i)).				+	\$.00
TOTAL NATIONAL FEE =				\$.00	
Fee for recording the enclosed assignment (37 CFR 1.21(h)). The assignment must be accompanied by an appropriate cover sheet (37 CFR 3.28, 3.31). \$40.00 per property				+	\$.00
Fee for extension of time to respond to Notification of Missing Requirements (37 CFR 1.136(a)). A Petition for Extension of Time is included.				+	\$.00
TOTAL FEES ENCLOSED =				\$.00	
				Amount to be refunded:	
				Amount to be Charged:	

U.S. APPLICATION NO. (If known, see 37 CFR 1.5) 10/520,986	INTERNATIONAL APPLICATION NO. PCT/GB2003/002962	ATTORNEY'S DOCKET NUMBER 310134.402USPC
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a. ☐ A check in the amount of \$_____ to cover the above fees is enclosed.

b. ☐ Please charge my Deposit Account No. **19-1090** in the amount of \$_____ to cover the above fees. A duplicate copy of this sheet is enclosed.

c. ☐ The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. **19-1090**. A duplicate copy of this sheet is enclosed.

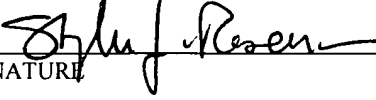
d. ☐ Fees are to be charged to a credit card. **WARNING:** Information on this form may become public. **Credit card information should not be included on this form.** Provide credit card information and authorization on PTO-2038.

e. ☒ If there is a deficiency in the basic national fee, the Commissioner is authorized to charge such deficiency to Deposit Account No. **19-1090**. A duplicate of this sheet is enclosed. This is **not** a general authorization to charge the Deposit Account for any extra claim, examination, search or extra sheet fees.

NOTE: Where an appropriate time limit under 37 CFR 1.495 has not been met, a petition to revive (37 CFR 1.137(a) or (b)) must be filed and granted to restore the International Application to pending status.

SEND ALL CORRESPONDENCE TO:

Stephen J. Rosenman, Ph.D.
 Seed Intellectual Property Law Group PLLC
 701 5th Avenue, Suite 6300
 Seattle, WA 98104-7092
 United States of America
 (206) 622-4900



 SIGNATURE

Stephen J. Rosenman, Ph.D.

 NAME

43,058

 REGISTRATION NUMBER

838889_1.DOC

(07/05)

PATENT COOPERATION TREATY

Applicants : Richard GILBERT, Xiao-Feng ZHOU and Brian Philip ALLEN
Int'l Application No. : PCT/GB2003/002962
U.S. Application No. : 10/520,986
Int'l Filing Date : 9 July 2003
Title : MOLECULAR DETECTOR ARRANGEMENT

Docket No. : 310134.402USPC

Date : September 21, 2006

PCT Legal Office
Mail Stop PCT
Assistant Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO DECISION OF SEPTEMBER 8, 2006

Commissioner for Patents:

Applicants thank the Commissioner for withdrawing the holding of abandonment pursuant to the evidence in the Petition to Accord a Filing Date ("Petition"), which was submitted by Applicants on July 25, 2006.

The PCT Legal Examiner's inspection of the copy of the July 27, 2005 Declaration, which was submitted with the Petition, revealed a discrepancy whereby the name of the second inventor appeared as "Xiao-Feng ZHOU", while the published international application (PCT/GB2003/002962) names as an inventor "XHOU, Xiao-Feng".

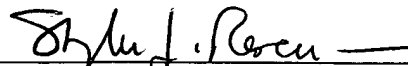
The undersigned representative has verified that the proper spelling of the second inventor's name is indeed "Xiao-Feng ZHOU". Any typographical errors that arose are on the part of the International Bureau at publication, insofar as Xiao-Feng ZHOU's name was properly spelled in the PCT Request.

Express Mail No.: EV719380741US
International Application No.: PCT/GB2003/002962
International Filing Date: 9 July 2003

Please contact the undersigned representative if any additional information is required.
Issuance of a filing receipt and a Notice of Acceptance for this application are respectfully requested.

Respectfully submitted,

SEED Intellectual Property Law Group PLLC



Stephen J. Rosenman, Ph.D.

Registration No. 43,058

SJR:rp

Enclosure: Copy of Decision of September 8, 2006

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809398_1.DOC



08 SEP 2006

Express Mail No.: EV529805808US

Commissioner for Patent
United States Patent and Trademark Office
P.O. Box 145
Alexandria, VA 22313-145
www.uspto.gov

RECEIVED

SEP 11 2006

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In re Application of
Gilbert et al.
Application No. 10/520,986
PCT No.: PCT/GB03/02962
Int. Filing Date: 09 July 2003
Priority Date: 10 July 2002
Atty. Docket No.: 310134.402USPC ✓
For: Molecular Detector Arrangement

DECISION

Response to
discrepancy in the
Declaration
Oct. 8, 2006
ENTERED IN DOCKET

This is in response to the "Petition To Accord A Filing Date" filed on 25 July 2006.

DISCUSSION

In a Notification mailed on 30 June 2006, the correspondence filed on 02 June 2006 was treated as follows:

The instant correspondence urges that "a copy of the Response as filed on July 27, 2005" be accepted on the basis of return postcard receipt evidence. However, the instant correspondence has not been signed by a registered patent attorney or agent. Further, it appears to have been prepared and signed by "Rosie Price, Legal Assistant to Stephen J. Rosenman, Ph.D." It would not be appropriate to consider the merits of this correspondence (which is in effect a petition to accord a filing date to the "copy of the Response as filed on July 27, 2005") in the absence of the signature of a registered practitioner.

The instant petition is signed by a registered practitioner, who cites an accompanying copy of a return postcard receipt. Said postcard receipt is stamped as "Rec'd PCT/PTO 27 JUL 2005" and itemizes the following:

Check; Transmittal Letter (3 pages + copy); Declaration for Utility or Design Application Using an Application Data Sheet (1 page); Election and Power of Attorney; Statement under 37 C.F.R. § 3.73(b); Form PTO-1595; Assignment (3 pages); Information Disclosure Statement, Form PCT-1449 (1 page); Copies of Cited References (11); and Copy of Notification of Missing Requirements (PCT/DO/EO/905)

The petition is accompanied by copies of a Transmittal Letter, a Declaration, an "Election and Power of Attorney," a statement under 37 CFR 3.73(b), an assignment, an IDS (Form PTO-1449) and 11 prior art references. Petitioner states that, inter alia, the stamped postcard receipt and the "Response to Notification of Missing Requirements are true copies." MPEP 503 states in part that "A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the

date stamped thereon by the PTO." Following that practice, the itemized correspondence (including *inter alia* the declaration) is regarded as a copy of the correspondence originally filed on 27 July 2005. Since said correspondence included an executed declaration (in response to the requirement set by the Form PCT/DO/EO/905 mailed on 12 July 2005), the holding of abandonment is hereby WITHDRAWN.

Inspection of the 25 July 2006 copy of the declaration originally filed on 27 July 2005 reveals that it names "Xiao-Feng ZHOU" as the second inventor, while the published international application nominates "XHOU, Xiao-Feng." It is not clear from the record whether this discrepancy arose from a mere typographic error or phonetic misspelling of applicant's name or, alternatively, whether it reflects a substantive change in the name or identity of the inventor. If the latter case obtains, a proper petition and fee under 37 CFR 1.182 would be required to resolve this matter. See MPEP § 605.04(b) and MPEP § 201.03(b). In the absence of an acceptable petition and/or statement addressing this discrepancy, or alternatively a newly executed declaration naming the same inventive entity as nominated in the published international application, it would not be appropriate to accept the declaration under 37 CFR 1.497(a) and (b) at this time.


CONCLUSION

The petition is GRANTED to the extent described above.

Applicants have ONE (1) MONTH to file a proper response addressing the discrepancy in the declaration described above. Extensions of time under 37 CFR 1.136(a) are NOT available. Failure to file a timely response will result in ABANDONMENT.

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, with the contents of the letter marked to the attention of the PCT Legal Office.


Daniel Stemmer
PCT Legal Examiner
Office of PCT Legal Administration


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